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Security Council

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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 31 July 2009 from the Permanent Mission of Germany to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Germany to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to Security Council resolution 1718 (2006) and has the honour to notify the Committee, with reference to the note verbale dated 17 July 2009, the following:

Germany and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by Security Council resolutions 1718 (2006) and 1874 (2009) by taking the following common measures (all common measures are published in the Official Journal of the European Union, which can be consulted through the following web pages: http://eur-lex.europa.eu/JOIndex.do?ihmlang=en (published issues) and http://eur-lex.europa.eu/RECH_menu.do?ihmlang=en (search form)):

Council Common Position 2006/795/CFSP of 20 November 2006 (Official Journal of the European Union L 322, 22 November 2006, p. 32), as amended by Council Common Position 2009/573/CFSP of 27 July 2009 (Official Journal of the European Union L 197, 29 July 2009, p. 111).

The Common Position sets out the European Union's commitment to implementation of all the measures contained in resolutions 1718 (2006) and 1874 (2009), and provides the basis for European Union specific implementing measures within the scope of the resolutions, notably:

- complete arms embargo
- export ban on certain other items, in addition to those determined by the sanctions Committee, which could contribute to the Democratic People's Republic of Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes
- listing, to be decided by the Council of the European Union, of persons and entities subject to the visa ban and asset freeze, either by reason of their promotion or support of the Democratic People's Republic of Korea's

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programmes as mentioned above or because they provide financial services or other resources that could contribute to those programmes

- enhanced monitoring over the activities of financial institutions with the jurisdiction of European Union member States with certain banks and financial entities linked to the Democratic People's Republic of Korea

- additional information requirements for aircraft and vessels transporting cargo to and from the Democratic People's Republic of Korea.

The European Union will adopt a Council Decision implementing Common Position 2006/795/CFSP and establish, for the purpose of the visa ban and the asset freeze, the list of persons and entities in accordance with determinations made by the sanctions Committee on 24 April and 16 July 2009.

Council Regulation (EC) No. 329/2007 of 27 March 2007 (Official Journal of the European Union L 88, 29 March 2007, p. 1), as amended by Commission Regulation (EC) No. 117/2008 of 28 January 2008 (Official Journal of the European Union L 35, 9 February 2008, p. 57) and Commission Regulation (EC) No. 389/2009 of 12 May 2009 (Official Journal of the European Union L 118, 13 May 2009, p. 78).

The Council Regulation implements in the European Community the ban on exports of goods and technology which could contribute to the Democratic People's Republic of Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes and on the provision of related services, the ban on procurement of goods and technology from the Democratic People's Republic of Korea, the ban on export of luxury goods to the Democratic People's Republic of Korea, as well as the freezing of funds and economic resources of persons, entities and bodies engaged in or providing support for the said Democratic People's Republic of Korea programmes as designated by the sanctions Committee and the prohibition of making funds or economic resources available to such persons or entities, with certain exemptions as provided for in resolution 1718 (2006).

Commission Regulation No. 117/2008 amends the Council Regulation by including the list of goods and technology subject to the export and import ban (other than luxury goods) as set out in annex I to the Council Regulation in accordance with determinations made by the sanctions Committee.

Commission Regulation No. 389/2009 amends the Council Regulation by including the entities designated by the sanctions Committee on 24 April 2009 in the list of persons, entities and bodies subject to the asset freeze as set out in annex IV to the Council Regulation.

The Commission will adopt a Commission Regulation amending the Council Regulation by including goods in annex I and persons and entities in annex IV to the Council Regulations in accordance with determinations made by the sanctions Committee on 16 July 2009.

Council Regulation (EC) No. 539/2001 of 15 March 2001 (and its subsequent amendments) (Official Journal of the European Union L 81, 21 March 2001, p. 1). This Regulation requires nationals of the Democratic People's Republic of Korea to be in possession of a visa when entering the European Union.

Germany has the following national legislation prohibiting the sale, supply, transfer or export of arms and related materiel (this legislation should apply to all goods included in the Common Military List of the European Union, Official Journal of the European Union C 65, 19 March 2009, p. 1) to the Democratic People's Republic of Korea and the provision of brokering services related to military activities: Section 69n of the Federal Foreign Trade Regulation. Penalties for any infringements of the arms embargo are set out in Section 70a, paragraph 2, of the Federal Foreign Trade Regulation (and Section 34, paragraph 4, No. 1 of the Federal Foreign Trade Act).

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all States members of the European Union (Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom). Regulation (EC) No. 329/2007 requires Member States to determine the penalties applicable to infringements of their provisions. The penalties determined by Germany are set out in Section 34, paragraph 4, No. 2 of the Federal Foreign Trade Act.